

P-999/CI-87-695 Protective Order.

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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| Barbara Beerhalter | Chair |
| Cynthia A. Kitlinski | Commissioner |
| Norma McKanna | Commissioner |
| Robert J. O'Keefe | Commissioner |
| Darrel L. Peterson | Commissioner |

In the Matter of an Alternative Investigation
Into IntraLATA Toll Access Compensation
Plans

ISSUE DATE: January 6, 1989

DOCKET NO. P-999/CI-87-695

PROTECTIVE ORDER

The Commission in its November 15, 1988 Order in this Docket authorized a point-to-point traffic study. Local Exchange Carriers may, under the terms of that Order, furnish certain documents, data, information, studies, materials or other matters claimed by them to be of a confidential nature, which may or will be used in a Toll Access Compensation Plan Study ("Study") which is being conducted as part of the above-entitled proceeding. To help effectuate that Study, it is desirable for the Commission to issue this Protective Order.

Accordingly, IT IS HEREBY ORDERED:

1. Scope. All documents, data, information, materials, or other matters furnished in conjunction with the Study that are proprietary information or trade secrets (Confidential Information) shall be furnished pursuant to the terms of this Order and shall be treated by all persons afforded access thereto as constituting proprietary or trade secret information, and shall neither be used nor disclosed except for the purposes set forth in this Order or as may be amended by further Commission Order, and solely in accordance with this Order or any further Commission orders.

2. Permitted Use. Confidential Information shall not be used or disclosed except for purposes of the Study, Report(s) to the Commission on the results of the Study, and by a Local Exchange Carrier as may be reasonably necessary in order to evaluate the impact on it of any toll compensation plan that may be under consideration by the Commission in this or a future docket (Plans Under Consideration). A Local Exchange Carrier shall be permitted access only to the Confidential Information of its own exchanges and of those exchanges for which it switches or carries intraLATA toll traffic. Access to Confidential Information shall be limited to those persons who have read and signed Exhibit A to this Order. Moreover, with the exception of the Minnesota Public Utilities Commission, the Department of Public Service, and their staff, only the following persons are entitled to receive Confidential Information as part of the Study Committee process:

Members of the Study Committee, technical and legal staff of the members of the Study Committee, and those person within a Local Exchange Carrier who need access to Confidential Information of its own exchanges and of those exchanges for which it switches or carriers intraLATA toll traffic in order to evaluate any Plan Under Consideration.

3. Persons Permitted Access. Prior to reviewing any Confidential Information received in conjunction with the Study, each member of the Study Committee shall sign Exhibit A, which is attached to this Order. In addition, each Study Committee member is responsible for insuring that any technical support staff of that person read this Order and sign Exhibit A prior to receiving access to any Confidential Information. A Local Exchange Carrier which requests access to Confidential Information concerning a Plan Under Consideration, however, such person(s) must first read this Order and sign a copy of Exhibit A before access to Confidential Information will be permitted. A signed copy of the Exhibit A shall be submitted to the Executive Secretary of the Commission, who shall mail or otherwise provide copies of such signed Exhibit A to all members of the Study Committee, no Confidential Information shall be disclosed to person(s) who have signed Exhibit A until ten days after copies of the signed Exhibit have been mailed otherwise provided to member of the Study Committee. Written objections to the release of Confidential Information shall be filed, within the ten-day period, with the Commission and served on all members of the Study Committee. Upon receipt of an objection, all Confidential Information shall be withheld until ten days after Commission approval of such release.

4. Commission and DPS. The Public Utilities Commission and the Department of Public Service have established procedures to protect confidential data pursuant to Minn. Stat. § 13.03, subd. 2 (1986), the Government of Data Practices Act. Bona fide employees of these agencies need not execute the Exhibit A form attached to this Order but shall comply with the "Notice of Internal Procedures for Handling Trade Secret Information" adopted by those agencies.

No employee of the Public Utilities Commission or the Department of Public Service shall disclose any confidential data to any independent consultant who is not a bona fide employee of either agency until such consultant has first executed an Exhibit A form and caused such form to be served upon the Executive Secretary of the Commission, who shall mail or otherwise provide copies of the signed Exhibit A to all members of the Study Committee.

5. Copying. Except as needed for the Study, any report(s) on the Study, and evaluation of any Plan Under Consideration, no Confidential Information shall be i) copied or duplicated in any way; ii) entered into, incorporated into, or stored in any computer or any electronic or magnetic data base or record of either the requesting person or such Local Exchange Carrier.

6. References. Any public reference to Confidential Information shall be solely in such a manner as to not disclose this Confidential Information, or shall be given solely to persons who are entitled to receive Confidential Information pursuant to the preceding provision of this Order. Pursuant to normal Commission practice, sufficient notice shall be given prior to oral testimony or discussion of Confidential Information to clear the hearing room of persons who are not entitled to receive Confidential Information pursuant to the preceding provisions of this Order. Public references means a reference will not be placed in a sealed portion of the record. That part of the record of this Study and subsequent reporting containing Confidential Information, including all

exhibits, writings, and the like, shall be sealed for all purposes other than as may be further ordered by the Commission.

7. Challenges. Any person affected by the terms of this Order retains the right to question and to challenge any claim of a Local Exchange Carrier furnishing documents, data, information, studies, materials, and other matters, that such matters are or contain proprietary information or trade secrets. The burden of proving that the subject of the disclosure request constitutes Confidential Information shall be upon the party making such claim. Any disputes over such claims shall be first referred to the Commission.

8. Return or Destruction. Upon the completion of the proceeding which determines whether to continue or replace the current intraLATA toll compensation plan, including any administrative or other review, each copy of Confidential Information and all notes, records (magnetic, electronic, hard-copy or otherwise) calculations, data, documents, analysis (handwritten, computer-based, or otherwise) relating to or containing any Confidential Information made available under terms of this Agreement shall either be returned to the disclosing Local Exchange Carrier or destroyed by each person who has signed an Exhibit A. This obligation shall not extend to the actual report or records of proceedings based on the Report or such Confidential Information which may be in the possession of any attorney for a member of the Study Committee or attorney for a Local Exchange Carrier. Prior to the destruction of the underlying data to the Report, Northwestern Bell shall give 60 days notice to the Commission.

9. Confirmation of Return. Upon completion of this proceeding, including any administrative or other review, each representative on the Study Committee and Local Exchange Carriers which received Confidential Information, shall confirm and certify, by letter to the Executive Secretary of the Commission that all copies of Confidential Information and all notes, records (hard-copy, magnetic, electronic, or otherwise), calculation, data, documents, or analysis (handwritten, computer-based, or otherwise) relating to or containing any Confidential Information have been returned to the Local Exchange Carriers furnishing Confidential Information, retained by an attorney, or destroyed.

10. Identification. Each Local Exchanged Carrier shall adequately identify its Confidential Information (i) by providing a descriptive letter (ii) by stamping each page of each record with appropriate notice, or (iii) by using both of the techniques in subparagraphs (i) and (ii).

11. Statutory Standards. Information supplied to the State of Minnesota is subject to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq., and for purposes of this Agreement shall be regarded as non-public or protected non-public information under that statute. Information supplied to the United States is subject to the Federal Records Act, 44 U.S.C., Chapter 29, 31 and 33, and to the Freedom of Information Act, 5 U.S.C. § 522, and these statutes' implementing regulations.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)

"EXHIBIT A"

STATE OF MINNESOTA
MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of an Alternative Investigation
Into IntraLATA Toll Access Compensation Plans

Docket No. P-999/CI-87-695

PROTECTIVE AGREEMENT

I have been presented with a copy of the Protective Order issued by the Minnesota Public Utilities Commission in the above captioned case. I have read that Order and agree to be bound by the terms of that Order. I hereby certify that my reason for requesting and receiving Confidential Information is: [check the appropriate box(s)]

- 1) For purposes of the Study, Report(s) to the Commission on the results of the Study
___; and/or
- 2) For a Local Exchange Carrier who needs access to Confidential Information of its
own exchanges and of those exchanges for which it switches or carries intraLATA toll traffic
___.

I have requested review of the Confidential Information on behalf of _____
_____.

Dated this ___ day of _____, 198_.

Signature of Person Requesting
Review of Confidential Information

Title

Address

() _____
Telephone